

**CALIFORNIA COASTAL COMMISSION**

SAN DIEGO AREA  
7575 METROPOLITAN DRIVE, SUITE 103  
SAN DIEGO, CA 92108-4402  
(619) 767-2370



# Fri 8d

Filed: October 17, 2001  
49th Day: December 5, 2001  
180th Day: April 15, 2002  
Date of Extension  
Request: April 15, 2002  
Length of Extension: 90 Days  
Final Date for  
Commission Action: July 14, 2002  
Staff: GDC-SD  
Staff Report: May 23, 2002  
Hearing Date: June 10-14, 2002

REGULAR CALENDAR  
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-01-160

Applicant: Rick Taylor  
Keegan Harper

Agent: Bob Trettin

Description: Construction of an approximately 80 ft.-long, 13 ft.-high and 27 in.-thick tiedback concrete seawall incorporating two rows of approximately 30 ft.-long rock anchors.

Site: On the public beach below 252 and 258 Neptune Avenue, Encinitas, San Diego County. APNs: 256-352-13 and 256-352-12

---

STAFF NOTES:

Summary of Staff's Preliminary Recommendation: Staff is recommending denial of the proposed development as the applicant has not demonstrated that the existing residential structures are subject to threat such that a seawall is required to protect the existing residential structures pursuant to Section 30235 of the Coastal Act. The proposed seawall will have adverse impacts to shoreline sand supply, visual resources and public access and recreational opportunities. There are also alternatives available which will likely reduce the potential future threat without involving structural solutions and their associated landform alteration and beach impacts.

---

Substantive File Documents: Certified City of Encinitas Local Coastal Program (LCP); City of Encinitas Case No. 00-115 MUP/EIA; "Preliminary Geotechnical Evaluation/Request for Emergency Processing Proposed Lower Bluff Seawall for Taylor/Harper Residences" by Soil Engineering Construction, Inc., dated April 7, 2000; "Geotechnical Review Memorandum" by Dr.

Mark Johnsson dated May 7, 2000; “Responses to Geotechnical Memorandum” by Soil Engineering Construction” dated June 18, 2001; “Geotechnical Review Memorandum” by Dr. Mark Johnsson dated July 23, 2001; Response to Geotechnical Review Memorandum” by Soil Engineering Construction dated September 28, 2001; “Geotechnical Review Memorandum” by Dr. Mark Johnsson dated December 11, 2001; “Landslide Hazards in the Encinitas Quadrangle, San Diego County, California”, Open File Report, dated 1986 by the California Division of Mines and Geology; San Diego Association of Governments (July 1993) Shoreline Preservation Strategy (including technical report appendices, The Planners Handbook, Beachfill Guidelines, and Seacliffs, Setbacks and Seawalls Report); “Batiquitos Lagoon Dredging Survey”, dated September 1994, State Land Commission; Reconnaissance Report for the Encinitas Shoreline by the U.S. Army Corps of Engineers, dated March 1996; Final Draft Technical Report for the City of Encinitas Comprehensive Coastal Bluff and Shoreline Plan by Moffatt and Nichol Engineers, dated February 1996; CDP Nos. 6-85-396/Swift, 6-89-136-G/Adams, 6-89-297-G/Englekirk, 6-92-82/Victor, 6-92-212/Wood, 6-93-36-G/Clayton, 6-93-85/Auerbach, et. al, 6-93-131/Richards, et al, 6-93-136/Favero, 6-93-181/Steinberg, 6-95-66/Hann, 6-98-39/ Denver/Canter, 6-98-131/Gozzo, Sawtelle and Fischer, 6-99-9/Ash, Bourgault, Mahoney, 6-99-35-G/MacCormick, 6-99-75-G/Funke, Kimball, 6-99-131-G/Funke, Kimball, 6-99-41/Bradley, 6-00-009/Ash, Bourgault, Mahoney, 6-00-74/Gerber, Funke, Kimball, 6-00-171-G/Brown, Sonnie, 6-01-005-G/Okun, 6-01-040-G/Okun, 6-01-041-G/Sorich, 6-01-42-G/Brown, and Sonnie, 6-01-62-G/Sorich.

---

I. PRELIMINARY STAFF RECOMMENDATION:

**MOTION:**

*I move that the Commission approve Coastal Development Permit No. 6-01-160 for the development proposed by the applicant.*

**STAFF RECOMMENDATION OF DENIAL:**

Staff recommends a **NO** vote. Failure of this motion will result in denial of the permit and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

**RESOLUTION TO DENY THE PERMIT:**

The Commission hereby denies a coastal development permit for the proposed development on the ground that the development will not conform with the policies of Chapter 3 of the Coastal Act. Approval of the permit would not comply with the California Environmental Quality Act because there are feasible mitigation measures or alternatives that would substantially lessen the significant adverse impacts of the development on the environment.

## II. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description/Permit History. Proposed is the construction of an approximately 80 foot-long, 13 foot-high and 27 inch-thick tiedback concrete seawall on the public beach at the toe of the bluff below two lots containing an existing single-family residential and a duplex. The seawall is proposed to incorporate two rows of approximately 30 foot-long rock anchor tiebacks to be installed into the bluff. The face of the seawall is proposed to be colored and sculpted to closely match the surrounding natural bluff. In addition, to address the adverse impacts on local sand supply associated with the proposed seawall, the applicants propose to pay an in-lieu fee of \$9,950.70 to the San Diego Association of Governments' (SANDAG) beach sand mitigation fund.

Based on the plans submitted by the applicants, the existing duplex at 258 Neptune Avenue is located approximately 35 feet landward of an existing approximately 80 foot-high bluff edge. In 1984, in an application for conversion of the residence to duplex (CDP No. 6-84-394/Eady), the applicant documented that the distance between the residence and bluff edge was also approximately 35 ft. Thus, the bluff edge at this location has remained essentially unchanged for the last 18 years. The existing residence at 252 Neptune Avenue is located approximately 23 feet from the edge of the bluff. Based on public property data, both residences were constructed prior to the implementation of the Coastal Act in 1972. No evidence of prior coastal developments permits for the property at 252 Neptune Avenue containing the single-family residence has been found. However, three coastal development permits have been issued for development at 258 Neptune Avenue. In 1979, the San Diego Regional Commission approved a second story addition to the existing single-family residence (F8564/Eady). In 1982, the Commission approved the construction of a bluff edge fence and the removal of several trees (6-82-322/Eady). Finally, in 1984, the Commission approved the conversion of the two-story single-family residence into a duplex (6-84-394/Eady). Coastal development permits F8564 and 6-82-322 did not include conditions which in any way would preclude the construction of shoreline protective devices should the residential be threatened over its lifetime. However, CDP No. 6-84-394 for the conversion of the duplex included conditions requiring coastal permits for any future bluff face development, an assumption of risk deed restriction and notification to the property owner that the removal of any threatened portions of accessory structures located within 40 feet from the edge of the bluff will be the preferred and practical alternative to the erection of bluff and shoreline protection. The bluffs on the north and

south sides of the subject site generally remain in their natural state and do not contain seawalls or other shoreline protection.

The subject site is located in the City of Encinitas approximately 120 feet south of Stone Steps public access beach stairway. The subject seawall development lies seaward of the mean high tide line (MHTL). In September 1994, State Lands Commission surveyed the MHTL in Encinitas and concluded that the MHTL follows the toe of the bluff in the City of Encinitas (“Batiquitos Lagoon Dredging Survey”, 1994). The City of Encinitas has a certified LCP and has been issuing coastal development permits since May of 1995. However, because the proposed development lies seaward of the MHTL, it is located within the Commission's area of original jurisdiction, where permit jurisdiction is not delegated to the local government. As such, the standard of review is Chapter 3 policies of the Coastal Act, with the certified LCP used as guidance.

2. Geologic Conditions and Hazards. Section 30235 of the Coastal Act states, in part:

Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply.

In addition, Section 30253 of the Coastal Act states, in part:

New development shall:

(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

(2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs...

Coastal Act Section 30235 acknowledges that seawalls, revetments, cliff retaining walls, groins and other such structural or “hard” solutions alter natural shoreline processes. Thus, such devices are required to be approved only when necessary to serve coastal dependent uses or to protect public beaches or existing structures in danger from erosion. The Coastal Act does not require the Commission to approve shoreline altering devices to protect vacant land or in connection with construction of new development. A shoreline protective device proposed in those situations is likely to be inconsistent with various other Coastal Act policies. For example, Section 30253 addresses new development and requires that it be sited and designed to avoid the need for protective devices that would substantially alter natural landforms along bluffs and cliffs.

In addition, the Commission has generally interpreted Section 30235 to require the Commission to approve shoreline protection only for existing principal structures that are subject to threat. The Commission must always consider the specifics of each individual project, but has found in many instances that accessory structures such as patios, decks and stairways are not required to be protected under Section 30235 or can be protected from erosion by relocation or other means that does not involve shoreline protection. The Commission has historically permitted at grade structures within the geologic setback area recognizing they are expendable and capable of being removed rather than requiring a protective device that alters natural landforms along bluffs and cliffs.

The proposed development is located at the base of a coastal bluff in the City of Encinitas. The coastal bluff at the site consists of a dense bedrock unit (Torrey Sandstone) that forms near vertical to overhanging seacliffs, capped by marine terrace deposits that form steep bluffs ranging from 30 to more than 50 degrees. Bluffs in this area are subject to a variety of erosive forces and conditions (e.g., wave action, reduction in beach sand, oversteepened blocks of Torrey Sandstone). As a result of these erosive forces, the bluffs and blufftop lots in the Encinitas area are considered a hazard area. Furthermore, in 1986 the Division of Mines and Geology mapped the entire Encinitas shoreline as an area susceptible to landslides, i.e, mapped as either “Generally Susceptible” or “Most Susceptible Areas” for landslide susceptibility (ref. Open File Report, “Landslide Hazards in the Encinitas Quadrangle, San Diego County, California”, dated 1986). Documentation has been presented in past Commission actions concerning the unstable nature of the bluffs in these communities and nearby communities (ref. CDP Nos. 6-93-181/Steinberg, 6-92-212/Wood, 6-92-82/Victor, 6-89-297-G/Englekirk, 6-89-136-G/Adams). In addition, a number of significant bluff failures have occurred along the Solana Beach/Encinitas coastline which have led to emergency permit requests for shoreline protection (ref. CDP Nos. 6-87-86-G and 6-87-167-G/Bourgault, Mallen & White; 6-93-181/Steinberg, 6-93-131/Richards et al, 6-93-36-G/Clayton, 6-93-024-G/Wood, 6-92-212/Wood, 6-92-73-G/Robinson, 6-91-312-G/Bradley, 6-98-029/Bennet, 6-98-157-G/Colton and 6-99-41-G/ Bradley).

Section 30235 of the Coastal Act requires the Commission to approve shoreline protective devices if the existing structure is in danger from erosion. However, it is the opinion of the Commission’s staff geologist that the structures are not currently threatened. The applicant has submitted several geotechnical reports and updates concerning the subject properties which assert that the residential structures at the top of the bluff are threatened by “either gradual failures due to undercutting along the base of the bluff or a massive failure occurring from the toe of the bluff extending upward toward the residences located at the top of the bluff.” The applicant’s report asserts that a slope stability analysis for the site results in a factor of safety against a landslide at a low 1.13 (“Responses to Geotechnical Review Memorandum” by Soil Engineering Construction, Inc., dated June 18, 2001). Based on this low factor of safety, the applicant asserts that the single-family residence and duplex are currently threatened by a landslide. The Commission’s staff geologist has reviewed the applicant’s geotechnical information and determined that the geotechnical information does not adequately demonstrate the residences are currently threatened. First, the Commission’s staff geologist notes that on

bluffs composed of Torrey Sandstone, coastal erosion and bluff retreat usually takes the form of gradual erosion of the base of the bluff where it is impacted by waves, commonly creating wave-cut notches, overhangs, and seacaves. Typically, oversteepened Torrey sandstone bluffs fail by massive block fall of such undermined bluffs. Following failure of the lower bluff, the unsupported upper bluff (consisting of marine terrace deposits) commonly slumps shortly thereafter. Massive failures of the entire bluff are very rare in bluffs underlain by the Torrey sandstone. The Commission's staff geologist was not able to reproduce the very low factor of safety calculated by the applicant's geologists. Instead, his calculations showed a much higher factor of safety for the entire bluff of 1.4 ("Geotechnical Review Memorandum" by Dr. Mark Johnsson dated July 23, 2001). The applicant's geologists disagreed with this review memorandum, and provided a hand-calculation of the factor of safety based on the Ordinary Method of Slices (OMS) (REF). The Commission's staff geologist responded that the OMS method is too simplistic and results in an overly conservative low factor of safety. Using the more reliable "Bishops Method" of slope stability analysis, the Commission's staff geologist hand-calculated a factor of safety against landslide ranging upward from 1.32. (A factor of safety of 1.5 is considered safe). Regardless of the overall bluff's factor of safety, the Commission's geologist indicates that the typical bluff failure mechanism along this section of the Encinitas shoreline involves large block falls rather than a deep-seated landslides. In addition, he notes that "[w]hatever the factor of safety for such a deep-seated landslide, if the factor of safety for a block fall along fractures or new failure planes oriented parallel to the bluff face is lower, then that mechanism of bluff collapse will occur rather than the deep-seated landslide." ("Geotechnical Review Memorandum" by Dr. Mark Johnsson dated December 11, 2001.) In his opinion, block falls are the dominant failure mechanisms within the Torrey Sandstone along this section of the Encinitas shoreline. The applicant's "Preliminary Geotechnical Evaluation" by Soil Engineering Construction dated April 7, 2000, also supports the finding that block falls are the predominant failure mechanism for the area. The applicant's report of April 2000 describes the subject bluff as similar to the bluff at 232-246 Neptune Avenue where a large block fall occurred in January of 2000:

The relative unstable geologic composition, oversteepened mid and upper bluff, and the severe undercutting which was the underlying cause of the January failure on the neighboring properties, are all conditions that are present, and have developed concurrently, at the subject sites. (Page 3)

It is our opinion that an imminent threat to the subject properties – as well as the potential threat to those using the section of public beach adjacent to the bluff – will consist of a large volume bluff failure. The emergency nature of this threat is due primarily to the previously referenced substantial bluff undercut. (Page 5)

Because it appears that block falls within the Torrey Sandstone are the predominant failure mechanism at the site, the question is whether the single-family residence and duplex at the top of the bluff are currently threatened by a block fall event. The duplex is located approximately 35 feet landward of the approximately 80 foot-high coastal bluff and the single-family residence is located approximately 23 feet from the bluff edge. The

applicant's engineer asserts that the block fall is expected to "fail to a more a vertical condition" ("Reponses to Geotechnical Review Memorandum" dated June 18, 2001). The existing bluff extends approximately 55 feet seaward of the upper bluff edge with a slope of approximately 42 to 47 degrees. If the block fall were to occur, it would likely result in the failure of a block approximately 6 feet wide, as this is the approximate amount of overhang identified by the applicant's engineer that exists at the site. The remaining portion of the upper bluff would then extend approximately 45 feet seaward of the bluff edge. Following a block fall within the Torrey Sandstone, the upper terrace deposits over an extended period of time will lay back to a natural equilibrium angle (analogous to the angle of repose in unconsolidated sediments) above the terrace deposits at an angle of approximately 33 degrees. Based on the applicants' plans, a 33 degree angle of repose plotted from the seaward top of the Torrey Sandstone following an approximately 6 foot wide block fall would not intersect with the existing residential structures. In addition, it appears that one or more additional block falls could form and fail before the residence would be threatened. Therefore, even with the predicted block fall, it does not appear that the residences will immediately be threatened. After review of the applicant's geologic reports and project plans, the Commission's staff geologist believes that the existing residences are not threatened. The geotechnical memo prepared by the Commission's staff geologist covering both the subject applicant and the nearby Dunham/Hunefeld project (ref. CDP 6-01-159) states as follows:

In summary, the slope stability analyses do not indicate that bluff collapse through a deep-seated landslide through the Torrey Sandstone at the base of the bluff is imminent. The geometry of these bluffs, particularly that at the more northern site (Dunham-Hunefeld; the site modeled here) does suggest that a block fall is likely in the near future. However, as explained in my previous memos, such a failure would not place the structures at the top of the bluff in danger for some time—probably many years. Accordingly, the proposed seawalls must be considered preventative in nature, and are not needed at this time to assure the stability of the structures at the top of the bluff. ("Geotechnical Review Memorandum" by Dr. Mark Johnsson dated December 11, 2001.)

Thus, based upon the current distance between the residences and the bluff edge, the likely mechanism of bluff failure (block fall), the predicted equilibrium slope of the marine terrace deposits, and the lack of evidence for deep-seated landslides, there is no evidence that the existing residence is in danger from erosion and therefore, the Commission is not required to approve a shoreline altering device pursuant to Section 30235. In this case, the proposed shoreline protective device is intended to reduce continuing erosion to prevent loss of additional property even though the existing principal structures are not actually "in danger". Thus, the Commission is not required to approve a shoreline altering device. Further, as discussed below, approval would be inconsistent with other Chapter 3 policies which address visual quality of coastal areas, minimization or landform alteration and protection of public access and recreational opportunities. Also, there are alternatives available which will likely reduce the potential future threat without involving structural solutions and their associated landform alteration and beach impacts.

A number of adverse impacts to public resources (beach, bluff and access) are associated with the construction of shoreline structures. In this particular case, the natural shoreline processes referenced in Section 30235 of the Coastal Act, such as the formation and retention of sandy beaches, will be altered by construction of a seawall, since bluff retreat is one of several ways that beach quality sand is added to the shoreline. This retreat is a natural process resulting from many different factors such as undercutting by wave action of the toe of the bluff causing bluff collapse, saturation of the bluff soil from ground water causing the bluff to slough off and natural bluff deterioration. When a seawall is constructed on the beach at the toe of the bluff, it directly impedes these natural processes.

In addition to the above cited impacts, seawalls can threaten the stability of a site if the wall should become damaged in the future (e.g. as a result of wave action, storms, etc.) which could lead to the need for more shoreline or bluff stabilization devices. Damaged seawall structures could also adversely affect the shoreline by resulting in debris on the beach and/or creating a hazard to the beach going public. Seawalls need to be designed to withstand the effects of wave actions and major storms and need to have their structural condition monitored on an annual basis to ensure proper maintenance and repair.

Some of the effects which a structure may have on natural shoreline processes can be quantified. Three of the effects from a shoreline protective device which can be quantified are 1) loss of the beach area on which the structure is located; 2) the long-term loss of beach which will result when the back beach location is fixed on an eroding shoreline; and 3) the amount of material which would have been supplied to the beach if the back beach or bluff were to erode naturally.

Based on review of the proposed seawall application, the Commission finds that the following impacts on beach sand supply would result from construction of the proposed seawall. The proposed seawall, which is approximately 80 ft. long by 27 inches thick, will encroach onto and permanently displace an estimated 180 sq. ft. of public beach area that is currently available for public use. In addition, over the expected life of the seawall, it is estimated that an additional 352 sq. ft. of public beach area will be lost to public use due to the seawall's prevention of the landward migration of the beach in this location (based on information provided by the applicant's engineer that the expected life of the seawall is approximately 22 years and the long-term erosion rate at the base of the bluff is .2 ft. per year). Finally, based on a rough approximation of current and future bluff profiles, it is estimated that approximately 478 cubic yards of beach quality sand will be deprived the beach over the life of the seawall due to the seawall's alteration of the natural erosion of the bluff.

The above-described impacts on the beach and sand supply have previously been found to result from seawalls in other areas of Encinitas. In March of 1993, the Commission approved CDP #6-93-85/Auerbach, et al for the construction of seawalls fronting six non-continuous properties located approximately one to two blocks north of the subject site.



In its finding for approval, the Commission found the proposed shoreline protection would have specific adverse impacts on the beach and sand supply and required mitigation for such impacts as a condition of approval. The Commission made a similar finding for several other seawall developments along Neptune Avenue (ref. CDP Nos. 6-93-36-G/Clayton, 6-93-131/Richards, et al, 6-93-136/Favero, 6-95-66/Hann, 6-98-39/Denver/Canter, 6-98-131/Gozzo, Sawtelle and Fischer, 6-99-9/Ash, Bourguault, Mahoney, 6-99-41/Bradley and 6-00-74/Grey Diamond Marketing, Funke, Kimball.)

In addition to the adverse impacts the seawall will have on the beach as detailed above, the Commission finds that the proposed seawall would also have adverse impacts on adjacent unprotected properties caused by wave reflection, which leads to accelerated erosion. Numerous studies have indicated that when continuous protection is not provided, unprotected adjacent properties experience a greater retreat rate than would occur if the protective device were not present. This is due primarily to wave reflection off the protective structure and from increased turbulence at the terminus of the seawall. According to James F. Tait and Gary B. Griggs in Beach Response to the Presence of a Seawall (A Comparison of Field Observations) "[t]he most prominent example of lasting impacts of seawalls on the shore is the creation of end scour via updrift sand impoundment and downdrift wave reflection. Such end scour exposes the back beach, bluff, or dune areas to higher swash energies and wave erosion." As such, as the base of the bluff continues to erode on the unprotected adjacent properties, failure of the bluff is likely. Thus, future failures could "spill over" onto other adjacent unprotected properties, prompting requests for much more substantial and environmentally damaging seawalls to protect the residences. This then starts a "domino" effect of individual requests for protection.

Although the proposed seawall could be designed with features to reduce impacts of the wall on adjacent properties, at best, the above described impacts can be reduced, but not eliminated. The proposed seawall design also includes a return wall on each end of the seawall, which go into the bluff perpendicular to the wall and the bluff face. Return walls are an important component of a seawall as they protect the wall from wave flanking, which could lead to erosion behind the wall. Regardless of whether accelerated erosion were to occur on the adjacent unprotected properties, the adjacent bluffs will continue to erode due to the same forces that are causing them to erode currently. As this occurs, more surface area of the return wall is exposed to wave attack leading to increased turbulence and accelerated erosion of the adjacent unprotected bluff.

According to information contained in the Planners Handbook (dated March 1993), which is included as Technical Appendix III of the Shoreline Preservation Strategy adopted by the San Diego Association of Governments (SANDAG) on October 10, 1993, "[a] longer return wall will increase the magnitude of the reflected wave energy. On a coast where the shoreline is retreating, there will be strong incentives to extend the length of the return wall landward as adjacent property is eroded, thereby increasing the return wall, and its effects on neighboring property, with time."

The Commission also finds that there are other alternatives available that could reduce the risk from erosion, while not requiring the construction of shoreline altering structures and their associated impacts on beach sand supply. Such alternatives include, but are not limited to, directing all blufftop drainage away from the bluff towards the street, removing or capping any existing permanent irrigation within the designated geologic setback area, installing a means of reducing groundwater before it reaches the bluff, underpinning the existing home foundations, removing at-grade accessory structures, and beach sand replenishment. While these alternatives will not prevent the natural erosion from occurring at the base of the bluff, they would reduce the risk associated with any subsequent upper bluff failure resulting from block falls at the base of the bluff or caused by groundwater, landscape watering or stormwater runoff.

In summary, while it is clear that the toe of the bluff fronting the existing residential structures is subject to wave action, the applicants have not documented that the wave action places the residential structure in danger from erosion or subsequent bluff failure such that a seawall is required. Thus, the Commission is not required to approve the proposed protection. In addition, as noted above, the proposed seawall will contribute to erosion and geologic instability over time on adjacent unprotected properties and also deplete sand supply, occupy public beach and fix the back of the beach. Additionally, there are other less damaging alternatives available to reduce the risk from bluff erosion. Therefore, the Commission finds that the proposed seawall is inconsistent with Sections 30235 and 30253 of the Coastal Act and must be denied.

3. Visual Resources/Alteration of Natural Landforms. Section 30251 of the Coastal Act states, in part:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas.

The proposed development will occur on a public beach at the base of an approximately 80 foot-high coastal bluff fronting a duplex. The bluffs on either side of the subject site remain in their natural state without shoreline protection devices or private access stairways. Therefore, even with the proposed color and sculpturing treatment of the seawall, the construction of an approximately 80 ft.-long, 13 ft.-high and 27 in.-thick tiedback concrete seawall would have adverse impacts on the visual resources of the area. The design of the seawall which includes measures to color and sculpt the structure to match the surrounding bluffs is similar to seawalls recently approved by the Commission to protect threatened structures. In this case, however, the applicants have failed to adequately demonstrate the residential structure at the top of the bluff is currently threatened and, therefore, the seawall is unnecessary. Therefore, since the proposed development will have significant adverse impacts on visual resources and is unnecessary

to protect the existing principle structure, the proposed development is inconsistent with Section 30251 of the Coastal Act and must be denied.

4. Public Access/Recreation. Section 30604 (c) of the Coastal Act requires development between the nearest public road and the sea to be in conformity with the public access and recreation policies of Chapter 3. In addition, Section 30210 of the Coastal Act is applicable to the proposed development and states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

In addition, Section 30212 of the Act is applicable and states, in part:

- (a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:
  - (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,
  - (2) adequate access exists nearby....

In addition, Section 30240(b) of the Coastal Act is applicable and states:

- (b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

The beach seaward of the proposed seawall is public trust lands because it is seaward of the MHTL. The State Lands Commission (SLC) retains ownership of the public trust lands, however, in this case, the SLC leases the area to the City of Encinitas. The site is located approximately 450 feet south of the City of Encinitas' "Stone Steps" public access stairway. The beach at the project site is used by local residents and visitors for a variety of recreational activities. Thus, the proposed seawall is located on sandy beach area that would otherwise be available to the public. The project will have several adverse impacts on public access.

The proposed seawall will extend approximately 2.25 feet onto the public beach occupying approximately 180 sq. ft. (80 ft. by 2.25 ft.) of usable public beach. Although the wall is minimally designed at 2.25 feet in width, the beach along this area of the coast is narrow and at high tides and winter beach profiles, the public may be forced to walk virtually at the toe of the bluff or the area may be impassable. As such, any encroachment of structures, no matter how small, onto the sandy beach in this area,

reduces the beach area available for public use. This is particularly true given the existing beach profiles and relatively narrow beach.

In addition to the above-described direct interference with public access by the proposed seawall, there are a number of indirect effects as well. The adverse impacts of the proposed seawall on shoreline processes, sand supply and beach erosion rates, as described previously in section 2 of this report, alter public access and recreational opportunities. The loss of sandy beach area and the loss of sand contribution to the beach reduce the beach area available for public access and recreation. The seawall will reduce lateral beach access by encroaching onto the beach and will have adverse impacts on the natural shoreline processes. As stated elsewhere in these findings, Section 30235 of the Act allows for the use of such a device where it is required to protect existing development that is threatened by erosion and where it has been designed to eliminate or mitigate adverse impacts upon shoreline sand supply. Although the applicants propose to mitigate the loss of sand through the payment of an in-lieu fee to SANDAG's sand replenishment program, the seawall is a preventative measure only and not necessary to protect the existing residential structure from the imminent threat of erosion. In addition, while the payment of an in-lieu fee could address potential adverse effects on shoreline sand supply, the payment would not compensate for the adverse visual impacts of a seawall or the alteration of the natural bluffs.

Therefore, since the no project alternative will involve less beach encroachment and since the proposed development will have both significant direct and indirect adverse impacts to public access and recreational opportunities, the proposed development is inconsistent with the public access and recreation policies of the Coastal Act and, therefore, must be denied.

3. Local Coastal Planning. Section 30604 (a) also requires that a coastal development permit shall be issued only if the Commission finds that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program (LCP) in conformity with the provisions of Chapter 3 of the Coastal Act. In this case, such a finding cannot be made.

The subject site is located on the beach within the City of Encinitas. In November of 1994, the Commission approved, with suggested modifications, the City of Encinitas Local Coastal Program (LCP). Subsequently, on May 15, 1995, coastal development permit authority was transferred to the City. Although the site is within the City of Encinitas, it is within the Commission's area of original jurisdiction. As such, the standard of review is Chapter 3 policies of the Coastal Act, with the City's LCP used as guidance.

As shoreline erosion along the coast rarely affects just one individual property, it is imperative that a region wide solution to the shoreline erosion problem be addressed and solutions developed to protect the beaches. Combined with the decrease of sandy supply from coastal rivers and creeks and armoring of the coast, beaches will continue to erode

without being replenished. This will, in turn, decrease the public's ability to access and recreate on the shoreline.

Based on specific policy and ordinance language requirements in the LCP suggested by the Commission and accepted by the City, the City of Encinitas is in the process of developing a comprehensive program addressing the shoreline erosion problem in the City. The intent of the plan is to look at the shoreline issues facing the City and to establish goals, policies, standards and strategies to comprehensively address the identified issues. To date, the City has conducted several public workshops and meetings on the comprehensive plan to identify issues and present draft plans for comment. However, based on recent discussions with City Planning Staff, it is uncertain when the plan will come before the Commission as an LCP amendment or when it will be scheduled for local review by the Encinitas City Council.

The bluffs in this section of the Encinitas coastline are in public ownership. The bluffs surrounding the subject site are, for the most part, pristine, devoid of shore and bluff protection structures or private access stairways; and, there is no visible evidence of landslides. The typical mechanism of bluff sloughing along this section of Encinitas involves the formation and collapse of oversteepened block sections of Torrey Sandstone which, according to the Commission's staff geologist, would not at this time threaten subject residences at the top of the bluff. As such, it is premature to commit this stretch of bluffs to armoring without a thorough analysis of alternatives.

If this project is approved, it sends a signal that there is no need for site specific geotechnical review to determine the safe location for placement of new development on the blufftop and will result in total armoring of the shoreline where there is any existing development even if the development is not in danger from erosion. This approach is not consistent with Section 30253 and the public access and recreation policies of the Coastal Act. In addition, it should be noted that other residences in the area are located approximately the same distance from the bluff as the residences subject to this permit review. Therefore, a decision that shoreline protective measures are appropriate as preventive measures to arrest erosion and preserve existing property when existing structures are clearly not threatened, should be done through a comprehensive planning effort that analyzes the impact of such a decision on the entire reach. The Commission should not approve "piece meal" construction of seawalls for individual properties which could further exacerbate the problem. Planning for comprehensive protective measures which may include a combination of continual lower bluff protection constructed in substantial segments, limits on future bluff development and ground and surface water controls, in conjunction with beach replenishment, should occur to avoid the need for substantial alteration of the natural landform in the future.

Based on the above discussion, the proposed seawall development has been found to be inconsistent with numerous Chapter 3 policies of the Coastal Act because the need for the seawall has not been documented and because its adverse impacts on beach sand supply and on adjacent unprotected properties would be significant. The Commission finds that approval of the proposed seawall development will prejudice the ability of the City of

Encinitas to prepare a comprehensive plan addressing the City's coastline as required in the certified LCP and consistent with Chapter 3 policies and, therefore, it must be denied.

4. Consistency With the California Environmental Quality Act (CEQA). Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

As previously stated and incorporated herein by reference, the proposed development would result in adverse impacts to coastal resources by altering and depleting shoreline sand supply, decreasing geologic stability and reducing visual quality of a scenic beach area. There are feasible alternatives available which would have substantially less significant environmental effects than the proposed seawall.

These feasible alternatives include the no project alternative which would allow the natural process of bluff erosion to continue; reducing erosion at the top of the bluff by assuring all drainage is directed away from the bluff edge; removing any existing permanent irrigation within the geologic setback area; installation of a means of reducing groundwater from reaching the bluff face; underpinning the residences; removing accessory structures; and other non-structural means to increase stability of the residence and the site and assure continued security for the residences from potential bluff erosion/failure. Therefore, as currently proposed, the Commission finds the proposed project is not the least environmentally damaging feasible alternative.